

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Lee Thomas Dixon And Janet Lee Dixon**

Case No. 10-80636

Chapter 13

Soc. Sec. No. xxx-xx-8120 and xxx-xx-5984

Mailing Address: 2225 Eveton Lane, Sanford, NC 27330-

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Debtors

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**MOTION TO MODIFY PLAN**

**NOW COME the Debtors**, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

1. This case was filed on April 12, 2010, with the Chapter 13 plan being subsequently confirmed on July 20, 2010.
2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:  
  
From: \$1,185.00 per month  
  
To: \$1,185.00 per month through August, 2011, followed thereafter by \$1,182.00 per month, starting in September, 2011.
3. The changed circumstances that justify the proposed modification are as follows: The Debtors' 2002 Chevrolet Malibu vehicle was damaged in a car accident on or about 5/1/11. Said vehicle secures a claim held by Security Financial Services. The claim was being paid "inside" this Chapter 13 case. There is presently an unpaid principal balance due on this secured claim in the amount of approximately \$1,963.70. The insurance company responsible for providing property damage insurance has declared the vehicle a "total loss", and is offering, by way of property damage settlement, to pay the sum of \$3,000.00.
4. To facilitate the proposed modification, the Debtors hereby surrender any interest they may have in the said wrecked vehicle. Since said creditor's claim is only secured to the extent of the unpaid principal balance due upon its allowed secured claim, creditor is only entitled to receive, from said settlement, an amount equal to the unpaid principal balance due upon its secured claim, plus interest at the rate set in the confirmation order. Upon the payment of the unpaid principal balance by said insurance company, Security Financial Services is obligated to release its lien on said vehicle and to then forward to said insurance company the certificate of title to said vehicle.

5. In addition, since the Debtors are surrendering their interest in said vehicle, it is no longer necessary to continue treating said creditor's claim as secured. Not having to continue treating said claim as secured, it is possible to lower the Debtors' plan payment, thereby freeing up money necessary to help the Debtors acquire and finance dependable alternate transportation.
6. An updated Schedule I and J (Income and Expenses) is not attached herewith, since the reduction in plan payment is minimal due to higher than expected priority claims. In addition, all of the money freed up by this proposed modification is reasonably necessary to fund the cost of dependable alternate transportation.
7. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325.

#### **Appended Application for an Additional Attorney Fee**

8. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

These services were not taken into account in the contract for legal services entered into between the undersigned and the Debtors.

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: August 17, 2011

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Koury Hicks

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Koury Hicks  
North Carolina State Bar No.: 36204  
6616-203 Six Forks Road  
Raleigh, N.C. 27615  
(919) 847-9750

## CERTIFICATE OF SERVICE

I, Koury Hicks, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on August 17, 2011 , I served copies of the foregoing **MOTION TO MODIFY PLAN** by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II  
Chapter 13 Trustee  
P.O. Box 3613  
Durham, N.C. 27702-3613

Michael West  
U.S. Bankruptcy Administrator  
P.O. Box 1828  
Greensboro, N.C. 27402-1828  
Lee Thomas Dixon And Janet Lee Dixon  
2225 Eveton Lane,  
Sanford , NC 27330-

SFC Central Bankruptcy  
Attn: Managing Agent  
PO Box 1893  
Spartanburg, SC 29304-

GMAC  
Attn: Managing Agent and  
Heather Satterfield, Adjuster  
PO Box 1623  
Winston-Salem, NC 27102

All creditors with duly filed claims as listed on the Trustee's Chapter 13 website.

/s Koury Hicks  
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Koury Hicks